

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES RIDGWAY, et al.,

Plaintiffs,

v.

WAL-MART STORES, INC.,

Defendant.

CASE NO. 3:08-cv-05221-SI

**ORDER DENYING DEFENDANT'S
MOTION TO STAY**

Re: Dkt. No. 290

Currently before the Court is defendant Wal-Mart's motion to stay this case until the Ninth Circuit resolves the pending appeal of *Ortega v. J.B. Hunt Transport, Inc.*, No. 14-56034 (9th Cir.). Dkt. No. 290 ("Motion"). Plaintiffs have filed an opposition. Dkt. No. 305. Wal-Mart has replied. Dkt. No. 308. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for resolution without oral argument and VACATES the hearing currently scheduled for July 1, 2016.

Wal-Mart argues that the *Ortega* appeal will "bear directly on summary judgment and trial proceedings before this Court" and that staying the case is the most efficient way to proceed. Motion at 1-2. In *Ortega*, truck driver plaintiffs alleged that J.B. Hunt violated California's minimum wage laws by failing to directly compensate its drivers for certain activities. *Ortega*, No. 07-cv-8336-BRO, 2014 WL 2884560, at *1 (C.D. Cal. June 4, 2014). In granting summary judgment for the defendant, the district court held that the Federal Aviation Administration Authorization Act ("FAAAA") preempted such claims. *Id.* at *6. Wal-Mart intends to file its own motion for summary judgment of plaintiffs' minimum wage claims based on FAAAAA preemption shortly, but argues that a stay would be the better course at this time. Mem. P. & A. at 1.

The Court disagrees. *Ortega* concerned a separate matter raised by different parties in another court. Moreover, the Central District of California decided *Ortega* before it had the benefit of the Ninth Circuit's guidance in *Dilts v. Penske Logistics, LLC*, 769 F.3d 637, 650

(2014), in which the appeals court found that the FAAAA does not preempt California meal and rest break laws as applied to defendant motor carriers. This case against Wal-Mart commenced nearly eight years ago and was already stayed for three years. Dkt. Nos. 1, 32, 37. The Court is reluctant to issue another stay at this time, particularly given that the *Ortega* appeal has been pending for several years and the opening brief in the Ninth Circuit is not due for two more months. *See* Mem. P. & A. at 1. The question of FAAAA preemption of California minimum wage law appears to be a new issue in this case,¹ and the Court will consider that question when Wal-Mart files its motion for summary judgment on July 8, 2016.

For the foregoing reasons, the Court hereby DENIES Wal-Mart's motion to stay.

IT IS SO ORDERED.

Dated: June 24, 2016



SUSAN ILLSTON
United States District Judge

¹ In February 2013, Wal-Mart moved to dismiss plaintiffs' fourth amended complaint based in part on arguments that the FAAAA preempted plaintiffs' meal and rest break claims. Dkt. No. 65. The motion did not argue for preemption of the minimum wage claims.